

## § 57.815

consist of the record for issuing the tentative determination, any comments timely submitted under § 57.803(e)(4), any briefs or reply briefs timely submitted under § 57.812 (a) through (c), and the transcript of any oral argument granted under § 57.812(d).

(2) Where a hearing has been held, the administrative record for issuance of the Administrator's final decision shall consist of the record of preparation of the recommended decision, any briefs or reply briefs submitted under § 57.812 (a) through (c), and the transcript of any oral argument granted under § 57.812(d).

### § 57.815 State notification.

The Administrator shall give notice of the final decision in writing to the air pollution control agency of the State in which the smelter is located.

### § 57.816 Effect of negative recommendation.

No waiver of the interim requirement for the use of constant controls shall be granted by the Administrator or a State unless the Administrator or a State first takes into account the Administrator's report, findings, and recommendations as to whether the use of constant controls would be so costly as to necessitate permanent or prolonged temporary cessations of operation of the smelter.

## APPENDIX A TO PART 57—PRIMARY NON-FERROUS SMELTER ORDER (NSO) APPLICATION

### INSTRUCTIONS

#### 1. General Instructions

- 1.1 Purpose of the Application
- 1.2 NSO Financial Tests
- 1.3 Confidentiality
2. NSO Financial Reporting Overview
- 2.1 Revenue and Cost Assignment
- 2.2 Transfer Prices on Affiliated Party Transactions
- 2.3 Forecasting Requirements
- 2.4 EPA Furnished Forecast Data
- 2.5 Applicant Generated Forecasts
- 2.6 Weighted Average Cost of Capital for Nonferrous Metal Producers
- 2.7 Horizon Value
- 2.8 Data Entry
- 2.9 Use of Schedules
- 2.10 Use of Exhibits

#### DETAILED INSTRUCTIONS FOR EACH SCHEDULE

##### A.1 Historical Revenue Data

## 40 CFR Ch. I (7–1–03 Edition)

- A.2 Historical Cost Data
- A.3 Historical Profit and Loss Summary
- A.4 Historical Capital Investment Summary
- B.1 Pre-Control Revenue Forecast
- B.2 Pre-Control Cost Forecast
- B.3 Pre-Control Forecast Profit and Loss Summary
- B.4 Constant Controls Revenue Forecast
- B.5 Constant Controls Cost Forecast
- B.6 Constant Controls Forecast Profit and Loss Summary for the Profit Protection Test
- B.7 Profit Protection Test
- C.1 Constant Controls Forecast Profit and Loss Summary for the Rate of Return Test
- C.2 Constant Controls Sustaining Capital Investment Forecast
- C.3 Historical Capital Investment in Constant Dollars
- C.4 Rate of Return Test
- C.5 Horizon Value of Cash Flows for the Rate of Return Test
- D.1 Interim Controls Revenue Forecast
- D.2 Interim Controls Cost Forecast
- D.3 Interim Controls Forecast Profit and Loss Summary
- D.4 Interim Controls Sustaining Capital Investment Forecast
- D.5 Cash Proceeds from Liquidation
- D.6 Permanent Waiver from Interim Controls Test
- D.7 Horizon Value of Cash Flows for the Interim Controls Test

### 1. General Instructions

1.1 Purpose of the application. This application provides financial reporting schedules and the accompanying instructions for EPA's determination of eligibility for a non-ferrous smelter order (NSO), and for a waiver of the interim constant controls requirement of an NSO. Although the determination of eligibility for an NSO is prerequisite for the determination of a waiver, appendix A, as a matter of convenience to applicants, includes both the NSO and waiver tests and reporting schedules.

In order to support an NSO eligibility determination, the applicant must submit operating and financial data as specified by the schedules included in this application. Specific instructions for completing each schedule are provided in subsequent sections of the instructions. In general, applicants must provide:

(a) Annual income statements, balance sheets and supporting data covering the five most recent fiscal years for the smelter for which the NSO requested.

(b) Forecasts of operating revenues, operating costs, net income from operations and capital investments for the firm's smelter operations subject to this application, on the basis of anticipated smelter operations without any sulfur dioxide air pollution control